

REMARKS

Claims 1, 7, 22, 25, 27-29, 33 and 34 have been amended, claim 16 has been cancelled, without prejudice or disclaimer, and claim 35 has been added. Claims 1, 7, 8, 22-25, 27-31, and 33-35 are pending and under consideration. Claims 1, 31, 33 and 34 are the independent claims. No new matter is presented in this Amendment.

DOUBLE PATENTING:

Claim 16 stands objected as being a substantial duplicate of claim 7.

It is noted that claim 16 has been cancelled without prejudice or disclaimer. Accordingly, the rejection of claim 16 is moot.

REJECTIONS UNDER 35 U.S.C. §103:

Claims 1, 7-8, 16, 22-25, 27-28, 31, and 33-34 are rejected under 35 U.S.C. §103(a) as being unpatentable over Ueda et al. (hereafter Ueda) (U.S. Pg Publication No. 2001/0007545).

Regarding the rejection of independent claim 1, it is noted that claim 1 recites a read-only optical information storage medium comprising a burst cutting area having a bar code, a lead-in area, a data area, and a lead-out area, in which data is recorded in a form of pits, wherein a pattern comprising a sequence of the pits is repeated in an area of the burst cutting area and the pattern comprising the sequence of pits is other than the bar code.

The Office Action relies on Ueda for a teaching of a pattern comprising a sequence of pits repeated in an area of the disc. In particular, the Office Action relies on control data information "00h" repeatedly recorded in the lead-in area of the disc. The Office Action states that Ueda does not disclose that the repeatedly recorded control information is recorded in the BCA. However, the Office Action indicates that since both areas, the BCA and the lead-in area, are used to record control information pertaining to the disc, it would have been obvious to one or ordinary skill in the art at the time of the applicant's invention to provide the repeatedly recorded control information "00h" of the lead-in area to the BCA, since this would allow for re-read of a specific control data in another area of the BCA when the first operation fails.

It is respectfully noted that this subject matter is not shown in Ueda and furthermore, that

the Examiner's assertions appear to be flawed for at least the following reasons.

Initially, it is noted that Ueda discloses a lead-in area (FIG. 2A) including reference signal areas and control data areas, the areas being separated by blank areas having data "00h" recorded (paragraph 0038). Accordingly, Ueda simply discloses recording data "00h" in a blank area and the blank area being repeatedly placed between control data areas and reference signal areas. However, Ueda makes no reference or suggestion of the data "00h" recorded in the blank areas, having a sequence of pits, as recited in independent claim 1.

Furthermore, Applicants respectfully assert that, Ueda fails to teach or suggest any motivation why one of ordinary skill in the art would record the data "00h" recorded in the blank area of the lead-in area, in the BCA.

It is noted that as a general matter, in order to establish a *prima facie* obviousness rejection, the Examiner needs to provide both the existence of individual elements corresponding to the recited limitations, and a motivation to combine the individual elements in order to create the recited invention. Both the individual elements and the motivation need to be shown to have existed in the prior art. Should the Examiner fail to provide evidence that either one of the individual elements or the motivation does not exist in the prior art, then the Examiner has not provided sufficient evidence to maintain a *prima facie* obviousness rejection of the claim. MPEP 2143.03.

Accordingly, Applicants respectfully assert that the rejection of independent claim 1 under 35 U.S.C. §103(a) should be withdrawn because Ueda, fails to teach or suggest each feature of independent claim 1 and furthermore, because there is no motivation why one of ordinary skill in the art would modify the teachings of Ueda, as suggested in the Office Action.

Regarding the rejections of independent claims 31 and 33, it is noted that these claims recite some substantially similar features as independent claim 1. Thus, the rejections of these claims are also traversed for the reasons set forth above.

Furthermore, Applicants respectfully assert that dependent claims 7, 8 and 22-24 are allowable at least because of their dependence from claim 1, and because they include additional features which are not taught or suggested by the prior art. Therefore, it is respectfully submitted that claims 7, 8 and 22-24 also distinguish over the prior art.

Regarding the rejection of dependent claim 16, it is noted that claim 16 has been cancelled without prejudice or disclaimer. Accordingly, the rejection of claim 16 is moot.

Regarding the rejection of independent claim 25, it is noted that claim 25 recites a read-only optical information storage medium comprising a burst cutting area, a lead-in area, a user data area, and a lead-out area, in which data is recorded in the form of pits, wherein a pattern comprising a sequence of pits provided in the burst cutting area is formed by a recording modulation method different from a recording modulation method used to form the pits in at least one of the lead-in area, the user data area, and the lead-out area, and wherein the pattern is repeated in an area of the burst cutting area.

As noted above, Ueda discloses a lead-in area (FIG. 2A) including a reference signal area and a control data area, interposed between blank areas. Ueda further discloses that in each blank area data "00h" is recorded (paragraph 0038). Accordingly, Ueda simply discloses recording data "00h" in blank areas located between control data areas and reference signal areas. However, Ueda makes no reference or suggestion of the data "00h" having a sequence of pits, as recited in independent claim 25.

Furthermore, Ueda fails to teach or suggest that the sequence of pits provided in the burst cutting area is formed by a recording modulation method different from a recording modulation method used to form the pits in at least one of the lead-in area, the user data area, and the lead-out area, and wherein the pattern is repeated in an area of the burst cutting area. Accordingly, Ueda also fails to teach or suggest this other novel feature of independent claim 25.

Finally, Applicants respectfully assert that, Ueda fails to teach or suggest any motivation why one of ordinary skill in the art would record the data "00h" recorded in the blank area of the lead-in area in the BCA.

Accordingly, Applicants respectfully assert that the rejection of independent claim 25 under 35 U.S.C. §103(a) should be withdrawn because Ueda, fails to teach or suggest each feature of independent claim 25 and furthermore, because there is no motivation why one of ordinary skill in the art would modify the teachings of Ueda, as suggested in the Office Action.

Regarding the rejections of independent claim 34, it is noted that this claim recites some substantially similar features as independent claim 25. Thus, the rejection of this claim is also traversed for the reasons set forth above.

Furthermore, Applicants respectfully assert that dependent claims 27 and 28 are allowable at least because of their dependence from claim 25, and because they include

additional features which are not taught or suggested by the prior art. Therefore, it is respectfully submitted that claims 27 and 28 also distinguish over the prior art.

Claims 29-30 are rejected under 35 U.S.C. §103(a) as being unpatentable over Ueda and in view of Kondo (U.S. Pg Publication 2003/0053404).

Applicants respectfully traverse this rejection for at least the following reason.

Initially, it is noted that claims 29 and 30 depend from independent claim 25 and as noted above, Ueda fails to teach or suggest the novel features recited in independent claim 25.

Kondo discloses an information recording medium including a substrate having a serial groove portion and land portion patterns alternately formed in parallel, a recording layer formed on the pattern of the substrate, and a transparent layer formed on the recording layer (paragraph [0018]). Kondo fails, by itself, to disclose a burst cutting area (BCA) and thus fails to cure the deficiencies of Ueda.

Accordingly, Applicants respectfully assert that the rejection of claims 29 and 30 under 35 U.S.C. §103(a) should be withdrawn because neither Ueda nor Kondo, whether taken singly or combined teach or suggest each feature of independent claim 25 from which claims 29 and 30 depend.

CONCLUSION:

There being no further outstanding objections or rejections, it is submitted that the application is in condition for allowance. An early action to that effect is courteously solicited.

Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 503333.

Respectfully submitted,

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